



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

248

CRM-M-41327-2024

Date of decision: 02.09.2024

Sumit @ Vicky @ Sumit Kumar

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Sanjiv Gupta, Advocate
for the petitioner.

Mr. Gagandeep Singh Chhina, AAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.330 dated 16.08.2022 under Sections 148, 149, 201, 302 of the Indian Penal Code, 1860 and Section 25 of the Arms Act, 1959 registered at Police Station Sector 14, Panchkula, District Panchkula.

2. Learned counsel for the petitioner submits that the petitioner, who has been in custody since 16.08.2022, has been falsely implicated in the present case which is evident from the fact that while stepping into the witness box all the material witnesses including the complainant, who allegedly also witnessed the murder of his owner brother, did not support the case of the prosecution as a result of which he was declared hostile. In support, learned counsel has drawn the attention of this Court to the deposition of the complainant, which has been annexed as Annexure P-2. Learned counsel submits that in the



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aforementioned facts and circumstances, since all the material witnesses have been examined and have all been declared hostile, further incarceration of the petitioner would serve no useful purpose as 19 prosecution witnesses still remain to be examined.

3. Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, has drawn the attention of this Court to the allegations levelled in the FIR which stands reproduced hereinunder:-

“That Sunny @ Sony son of Munesh Pal resident of 1805, Balmiki Mohalla, Khera Rajiv Colony, Sector 17, Panchkula age 21 years having mobile number 7743019790 stated that he is resident of above mentioned address and doing the work of cleaning, there are two brothers his brother Rajesh @Kaku was age 19 years and was doing the work of labourer his brother Kaku had dispute around one month ago with Vicky @ Sumit due to the said dispute Vicky and his family members were having grudge today at about 2.00 PM in front of our house my brother was sitting at that time from the third house from a house are neighbourer Raju Khalnayak, Vicky @ Sumit son of Sh. Raju, Samma son of Vikram, Anil son of Ram Phul, were taking my brother while beating him and dragging him after hearing the voice of my brother, my uncle @ Manju, my another uncle Vikas ram after them, thereafter Raju who was having gandasi in his hand, Anil was having knife, Sampal was having knife and Vicky was also having knife in their hand they took my brother in side by dragging him, while we were watching they all from the weapons in their hand, behind the head near the waist gave injuries, at that time there was Sonu Khalnayak, Rohit, Gugu who is son-in-law of Raju and Kiran who is daughter of Raju were also having sharp edged weapons in their hands they also gave injuries on the back of the head and waist and my brother was bleeding and got unconscious inside their house on the information given by us police reached at the spot and in the unconscious state my injured brother was taken to Government hospital, Sector 6, Panchkula where the doctor referred my brother to PGI Chandigarh, where at PGI Chandigarh the concerned doctor declared my brother as dead, my brother had been given injuries through sharp edged weapons by Raju Khalnayak, Vicky @ Sumit, Rohit, Sony Khalnayak,



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Anil, Sampal @ Sanjay, Gugu, Kiran, due to which he has died. On the spot, when crowd gathered, all these persons fled away. The death of my brother has been caused by Raju Khalnayak through injuries given by sharp edged weapons. Action may be taken against all those persons named by me. Signature Sunny, attested PSI Vikas Kumar, P.S. Sector 14, Panchkula dated 16.08.2022.”

4. It has been contended by the learned State counsel that it is a case based on eye witness account; the petitioner was not only named in the FIR in question by the brother of the deceased but a specific role had also been attributed to him in the crime in question. However, learned State counsel on instructions has not been able to controvert that all the material witnesses, who allegedly witnessed the crime in question, including the complainant, had not supported the case of the prosecution as a result of which they were declared hostile. Learned State counsel has also not disputed the stage of trial and has further submitted that the next date fixed before the learned Trial Court is 17.09.2024 when some of the remaining eye witnesses are likely to depose.

5. I have heard learned counsel for the parties and perused the material placed on record.

6. The petitioner has been in custody for more than 02 years having been arrested on 16.08.2022. All the material witnesses in the present case have been examined and have been declared hostile. There is no likelihood of the trial concluding in the near future. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

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7. Accordingly, the instant petition is allowed. The petitioner be admitted to bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

02.09.2024

Vinay

**(MANJARI NEHRU KAUL)
JUDGE**

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No